

REMARKS

The paper is in response to the Office Action mailed December 16, 2008 ("the Office Action"). The foregoing amendment cancels claims amends claim 1. Claims 1-14 remain pending in view of the amendments. Applicants respectfully request reconsideration of the application in view of the above amendments to the claims and the following remarks. For Examiner's convenience and reference, Applicants present remarks in the order that the Office Action raises the corresponding issues.

In connection with the prosecution of this case and any related cases, Applicants have, and/or may, discuss various aspects of the disclosure of the cited references as those references are then understood by the Applicants. Because such discussion could reflect an incomplete or incorrect understanding of one or more of the references, the position of the Applicants with respect to a reference is not necessarily fixed or irrevocable. Applicants thus hereby reserve the right, both during and after prosecution of this case, to modify the views expressed with regard to any reference.

Please note that Applicants do not intend the following remarks to be an exhaustive enumeration of the distinctions between any cited references and the claims. Rather, Applicants present the distinctions below solely by way of example to illustrate some of the differences between the claims and the cited references. Finally, Applicants request that Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of any reference is consistent with Examiner's understanding.

Unless otherwise explicitly stated, the term "Applicants" is used herein generically and may refer to a single inventor, a set of inventors, an appropriate assignee, or any other entity or person with authority to prosecute this application.

Rejections Under 35 U.S.C. §112, ¶1 and ¶2

The Office Action rejects claim 1 under 35 U.S.C. §112, ¶1 and ¶2. The rejections indicate that the "means for combining the network data" and "means for inserting device data received" are not clear and definite. More specifically, it appears that the rejections inquire as to the corresponding structure in the specification for these means-plus-function limitations.

Regarding the “means for combining” element, the Examiner indicates out that a fan out buffer may not be able to perform this step alone and is within the scope of the corresponding structure identified in the specification. In response, claim 1 has been amended to indicate that the means for combining must, at least, include a switch. Thus, the term “include” is open ended and does not exclude the fan out buffer, but includes at least a switch. Therefore, the Applicant believes that this element of claim 1 is clear and definite and respectfully requests that the rejections be withdrawn.

Regarding the “means for inserting” element, the Applicant respectfully asserts that this element is clear and definite. For example, the specification identifies several specific structural components that perform the step of inserting device data. More specifically, in paragraphs 45, 46, 72, and 89 the specification identifies one or more switches, Ethernet switches, field programmable gate arrays (FPGAs), and routers that can perform this step. All of these structural components are clearly identified as suitable corresponding structures for inserting device data received from the different network devices into the network cable through the first and second set of tap ports without disrupting the flow of data in the network cable. Therefore, the Applicant believes that this element of claim 1 is also clear and definite and respectfully requests that the rejections be withdrawn.

Charge Authorization

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefor and charge any additional fees that may be required to Deposit Account No. 23-3178.

CONCLUSION

In view of the foregoing, Applicants submit that the pending claims are allowable. In the event that Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview or overcome by an Examiner's Amendment, Examiner is requested to contact the undersigned attorney.

Dated this 14th day of May, 2009.

Respectfully submitted,

/David A. Jones/ Reg. 50,004

DAVID A. JONES
Registration No. 50,004
Attorney for Applicant
Customer No. 22913
Telephone No. (801) 533-9800